IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA.

CWP. NO. 197 OF 1999.

Judgment Reserved on: 9.4.2007
Date of Decision: 13.4.2007

Ashok Tandon & others ……**Petitioners**

Versus

HP State Electricity Board…….…… **Respondent.**

Coram

The Hon'ble Mr. Justice V.K. Ahuja, Judge

The Hon'ble Mr. Justice Kuldip Singh,Judge

Whether approved for reporting?

For the Petitioners: Mr.Ashwani K. Gupta,Advocate.

For the respondent : Mr.Shrawan Dogra, Advocate.

Kuldip Singh, J

The petitioners by way of this writ petition have assailed the judgment dated 16.4.1998 passed by H.P. State Administrative Tribunal (for short "Tribunal")in OA NO.879/97, rejecting the claim of the petitioners for grant of revised pay scales of Rs.1200-2200, Rs.1600-3000 (after 9 years, 16 years of service) on the pattern of Punjab State Electricity Board (for short "PSEB").

The case of the petitioners is that they were recruited as Sub Station Attendants by respondent in the year 1977 and they were promoted as Junior Engineers in the year 1995. The respondent is following the Punjab (PSEB) pattern of pay-scales and

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whether reporters of Local Papers may be allowed to see the Judgment?

On the revision of pay scales in the year 1986, the Sub Station Attendants in respondent-Board were granted the pay-scale of Rs.1200-2200 w.e.f. 1.1.1986. The PSEB has given the pay- scale of Rs.1600-3000 and Rs.2000-3500 to its Sub Station Attendants after the completion of nine years and sixteen years of service. There was demand of PSEB pattern of pay scales by the workman etc. of the respondent. The respondent-Board accepted the demand of the workmen etc. and they were asked to exercise their option whether they wanted PSEB pattern of promotional scale and were ready to surrender the excess amount which they had received on account of the higher pay-scales or not. This option was asked by respondent in May 1993. The petitioners and others who are shown in Annexure-P-2 have exercised their option for PSEB pattern of pay scale and at the same time they undertook to refund the excess amount. In all 41 Sub Station Attendants exercised option for PSEB pay scale . The respondent did not give them the scale on PSEB pattern. Therefore, the petitioners filed OA No.879/97 which was dismissed by Tribunal vide impugned order.

The respondent contested the claim of petitioners by filing reply. The stand of the respondent is that at the time of revision of pay scales w.e.f. 1.1.1986 the respondent decided to grant PSEB pay scales but the employees Union demanded scale to scale revision to all those categories who were given higher pre-revised scales in deviation to PSEB. Accordingly respondent allowed the pay scale of Rs.1350-2400 to the category of Sub Station Attendants w.e.f. 1.1.1986 against the scale of Rs. 1200-2200 admissible to this category on PSEB pattern. The PSEB

introduced the scheme of time bound promotional scales on completion of 9/16 years of service to various categories on lowest induction post on which the appointment is made through direct recruitment. The category of Sub Station Attendants was allowed first time bound promotional scale of Rs.1640-2925 on completion of 9 years service and second time bound promotional scale of Rs. 2000-3500 on completion of 16 years of service. The respondent introduced the time bound promotional scheme with some modifications vide office order No.12 dated 31.1.1991. The respondent was allowing higher pay scale of Rs.1350-2400 to the category of Sub- Station Attendants w.e.f. 1.1.1986 and this scheme has not been made applicable to the category of Sub Station Attendants. Afterwards various Union/Association of the employees represented for the grant of time bound promotional scales to them on PSEB pattern. Accordingly proposal to introduce time bound promotional scales on PSEB pattern was submitted for consideration and decision of the competent authority. This proposal was considered by the Board in the meeting held on 24.9.93 and decided as under:-

> *"It was decided to find out if the employees of a given cadre are ready to accept as a category the Punjab pay scales in toto with retrospective effect"*

The Chief Engineers were asked to send the options of the concerned employees cadre as a whole so that time bound promotional scales could be granted to all the categories including the category of Sub-Station Attendants who are drawing higher pay scale of Rs.1350-2400 w.e.f. 1.1.1986 in deviation to PSEB pattern and who are ready to accept PSEB scales in toto with retrospective effect. Only 41 out of 497 Sub-Station Attendants had opted for the pay scales of

PSEB retrospectively. Thus majority of the Sub-Station Attendants wanted to retain the deviated pay scales of Rs.1350-2400 w.e.f. 1.1.1986 without time bound promotional scales instead of PSEB scales of Rs.1200-2200 with time bound promotional scales. The whole category of the Sub-Station Attendants has not opted for the PSEB pay scales as such time bound promotional scales for the benefit of only 41 Sub Station Attendants can not be introduced leaving 456 Sub Station Attendants in the scale of Rs.1350-2400. Two different scales cannot be applied in the same organization for the employees having common seniority, similar duties and responsibilities, common cadre and governed under the same Recruitment and Promotional Regulations. On these facts the respondent submitted that the writ petition deserves to be dismissed.

The learned Tribunal dismissed the Original Application on the grounds that there is no decision to grant PSEB pattern scales to some employees in one category and keep others in different scale. It is not possible to have two different scales for the same employees for doing the same work. Majority of the employees in the category of Sub-Station Attendants did not adopt the revised pay scale on the PSEB pattern.

We have heard the learned counsel for the parties and have gone through the record.

The learned counsel for the petitioners has submitted that under the scheme only option from Sub-Station Attendants asked for was whether to opt for PSEB pattern of pay scale or not. In the scheme there is no provision that PSEB pattern of scale would be given only if whole Sub-Station Attendants as a category opt for PSEB pattern

of pay scale. The respondent is bound to give PSEB pattern of pay scale to such Sub-Station Attendants who opt for PSEB pattern of pay scale.

As per the stand of the respondent only 41 Sub-Station Attendants out of 497 have opted for PSEB pattern of pay scales. This has not been disputed by the petitioners. It is thus clear that the majority of the Sub-Station Attendants have not opted for PSEB pattern of pay scale. In Annexure P-4 dated 20.5.1989 it has been clearly mentioned that option in writing of all the employees of the categories including Sub-Station Attendants as a whole is to be taken whether they are ready to accept the pay scale as granted by the PSEB w.e.f. 1.1.1986 and they will return the excess amount drawn from 1.1.1986. The Annexure P-4 is to be read with Annexure P-3 Office Order dated 31.1.1991. Even otherwise, it is not possible to have two different pay scales in one category of employees who are discharging same and similar duties. In case, the plea of the petitioners is accepted than it will lead to serious complications. The majority of the Sub-Station Attendants have not opted for PSEB pattern of pay scale. There is no decision of respondent to give PSEB pattern of pay scale to some Sub Station Attendants and different pay scale in the same category to other Sub Station Attendants who have not opted for PSEB pattern of scales. No fault can be found with the decision of the learned Tribunal.

In view of above, this writ petition is dismissed with no order as to costs and the impugned judgment is upheld.

(V.K. Ahuja)
Judge

(Kuldip Singh)
Judge

April 13, 2007(sks)